

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KRISTOPHER S STARKGRAFT,

Plaintiff,

v.

WHITE, Correctional Officer, Pierce
County Sheriff's Department; PIERCE
COUNTY SHERIFF'S DEPARTMENT;
PLACE, Deputy Sergeant Corrections
Officer, Pierce County Sheriff's
Department; ANTONE, Corrections
Officer, Pierce County Sheriff's
Department; HAMILTON, Corrections
Officer, Pierce County Sheriff's
Department; AVEGA, Corrections Officer,
Pierce County Sheriff's Department;
PIERCE COUNTY; SEVERSON,
Corrections Officer, Pierce County Jail,

Defendants.

CASE NO. 23-cv-5593 RJB-MLP

ORDER ADOPTING REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of U.S.
Magistrate Judge Michelle L. Peterson. Dkt. 65. The Court has considered the Report and

1 Recommendation, objections to the Report and Recommendation, and the remaining file. It is
2 fully advised.

3 In this 42 U.S.C. § 1983 case, *pro se* Plaintiff Kristopher Starkgraf asserts various federal
4 and state claims against the Defendants in connection with his pretrial detention at the Pierce
5 County, Washington jail. Dkt. 10. The pending Report and Recommendation was filed on
6 December 20, 2024. Dkt. 65.

7 **REPORT AND RECOMMENDATION**

8 The facts and procedural history are in the Report and Recommendation (Dkt. 65) and are
9 adopted here. It recommends that all claims be dismissed except Plaintiff's (1) Fourteenth
10 Amendment excessive force claim against Defendant Corrections Officer Anthony White, and
11 (2) Fourteenth Amendment failure to protect claim against Defendant Corrections Officers
12 Jessica Place, Shanlynn Avega, and Patty Anton. Dkt. 65. The Report and Recommendation
13 also makes recommendations regarding Defendants' motion to seal and motion to strike. *Id.*

14 On January 6, 2025, the Plaintiff filed objections to the Report and Recommendation.
15 Dkt. 68. They are handwritten and extraordinarily hard to read. *Id.* Some portions are illegible.
16 *Id.*

17 **DISCUSSION**

18 The Report and Recommendation (Dkt. 65) should be adopted. The Plaintiff's objections
19 (Dkt. 68) do not provide a basis to reject the Report and Recommendation (Dkt. 65).

20 In the objections to the Report and Recommendation, the Plaintiff states that the reason
21 he called Corrections Officer White a "piece of shit" (just prior to the incident that he contends is
22 the basis for his excessive force claim) was because White indicated he would allow other
23 inmates to have Plaintiff's belongings. Dkt. 68. The Plaintiff also maintains that others brought
24

1 him his belongings, not White. *Id.* He further argues that a different officer “saved” him from
 2 another inmate attack. *Id.* The Plaintiff maintains that these details are important to his claims
 3 but fails to explain why they matter as to the claims that are recommended for dismissal. The
 4 details he discusses appear to relate to the claims that remain in the case.

5 As was discussed in the Report and Recommendation, the Plaintiff repeats elements of
 6 various claims but fails to point to any evidence to support them as he is required to do to defeat
 7 a motion for summary judgment. Dkt. 68. Further, he objects to the Report and
 8 Recommendation’s recommendation that his state law claims be dismissed for failure to comply
 9 with Washington’s claims presentment statute, RCW 4.96.020. *Id.* But rather than address his
 10 failure to comply with the RCW 4.96.020, he merely reargues the merits of his state claims. *Id.*

11 In his objections, the Plaintiff states that he opposes the Defendants’ motion to strike but
 12 fails to provide any reasonable basis to reject the Report and Recommendation’s
 13 recommendation that the motion to strike be granted. The Plaintiff does not oppose the
 14 recommendations regarding Defendants’ motion to seal.

15 Plaintiff’s remaining objections do not have merit. For the reasons provided therein, the
 16 Report and Recommendation (Dkt. 65) should be adopted.

17 **ORDER**

18 It is **ORDERED** that:

- 19 • The Report and Recommendation (Dkt. 65) **IS ADOPTED**:
 - 20 ○ Defendants’ Motion for Summary Judgment (Dkt. 40 filed in unredacted form at
 - 21 Dkt. 48) **IS**:
 - 22 ▪ **DENIED** as to Plaintiff’s (1) Fourteenth Amendment excessive force
 - 23 claim against Defendant Corrections Officer White, and (2) Fourteenth
 - 24

Amendment failure to protect claim against Defendant Corrections

Officers Place, Avega, and Anton, and

▪ **GRANTED** as to all other claims;

○ Defendants' Motion to Seal (Dkt. 61) **IS**:

▪ **GRANTED** as to Dkts. 48, 49-1 to 49-5, 50-2, and 57 - these pleadings will remain sealed, and


▪ **DENIED** as to Dkts. 49, 50, 50-1, 50-3 to 50-16, 51, and 52 - the Clerk's Office **IS DIRECTED** to unseal them; and

▪ Defendants **SHALL REFILE** Dkt. 48 (redacting references to medical records and birth dates, and without noting it for consideration); and Dkts. 50-2 and 57 (redacting Plaintiff's birthdate); and

○ Defendants' Motion to Strike (Dkt. 55) **IS GRANTED**.

The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at said party's last known address.

Dated this 21st day of January, 2025.



ROBERT J. BRYAN
United States District Judge